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Letter dated 15 May 2002 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to forward herewith to you and the members of the Security Council, the common proposals by Uganda and Rwanda on the way forward for the peace process in the Democratic Republic of the Congo (see annex).

The common document attached has been signed by the Deputy Prime Minister and Minister for Foreign Affairs of Uganda and the Minister for Foreign Affairs of the Republic of Rwanda.

I should be most grateful if you would circulate the present letter and its annex as a document of the Security Council.

(*Signed*) Anastase **Gasana**
Ambassador
Permanent Representative

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Annex to the letter dated 15 May 2002 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

Common proposals by Uganda and Rwanda on the way forward for the peace process in the Democratic Republic of the Congo

I. Introduction

1. The Minister for Foreign Affairs of the Republic of Rwanda, Andre Bumaya, and the Third Deputy Prime Minister and Minister for Foreign Affairs of the Republic of Uganda, James Wapakabulo, met in Kibuye, Rwanda on 1 and 2 May 2002 as a follow-up to the common understanding on the way forward for the peace process in the Democratic Republic of the Congo of 26 April 2002.

2. The Ministers examined the proposal of 12 April by President Thabo Mbeki, as well as the understandings between the Government of the Democratic Republic of the Congo and MLC of 19 April 2002 and of the Alliance for Safeguarding the Inter-Congolese Dialogue of 25 April 2002.

3. The Ministers reiterated the need to support all the Congolese parties and the facilitation in their efforts to reach an agreement on the institutions that would ensure a stable, secure and successful transition in the Democratic Republic of the Congo.

4. They further reaffirmed the importance of the following key principles to guide the inter-Congolese dialogue: **power-sharing** in all State institutions, **separation of powers** and **inclusiveness**.

5. The Ministers took note of the 37 resolutions that were adopted by all parties in the plenary at Sun City in the areas of defence, economy, social and humanitarian affairs and national reconciliation. They therefore considered and agreed on recommendations regarding, essentially, power-sharing in the transitional institutions.

II. The Executive

The Council of State of the Republic

6. The Ministers examined the various proposals on the Council of State and recommended that its composition should include the President as Chairman, two Vice-Presidents (chosen from RCD and MLC) and the Prime Minister (from the unarmed opposition). Where the office of the President, Vice-President or Prime Minister falls vacant, the Group holding the portfolio should nominate the replacement. The Council of State should to the extent possible reach decisions by consensus, failing which the matter should be put to vote.

7. The Ministers also recommended that the President convene the meetings of the Council of State. The Council of State should meet at least once a month or as often as may be initiated by the Vice-Presidents. In the event that the Head of State is absent the Council of State decides on who should act.

8. The Ministers further recommended that the mandate of the Council of State should include the following aspects:

- The declaration of war
- The command and deployment of the armed forces
- The appointments to senior military positions
- The proclamation of martial law
- The proclamation of a state of emergency
- Measures for the accomplishment of the Lusaka Ceasefire Agreement on the Democratic Republic of the Congo including DDRR and the withdrawal of all foreign forces
- The reunification of the country
- The formation of a new army
- The secure return of refugees and displaced persons
- The right of all Congolese to freedom of movement, communication and thought
- Matters relating to territorial administration
- Approval of the Transitional Constitution

The President

9. The Ministers took note of the various proposals on the presidency and recommended that President Kabila should remain the Head of State and Chairman of the Council of State during the transition. In particular, the President:

(a) Assents and signs the laws.

(b) Appoints, accredits, receives the ambassadors, plenipotentiaries, diplomatic representatives, and other members of the diplomatic corps, and members of the consular corps.

(c) Makes appointments which may be necessary by virtue conferred upon him by law.

(d) Pardons or commutes sentences of the condemned either unconditionally or under conditions he judges suitable and may defer the fines or sentences.

(e) Bestows honours.

(f) Signifies the censure of the Prime Minister and Cabinet Ministers.

The Vice-Presidents

10. The Ministers recommended that it should be left to MLC and RCD to agree on which other portfolios the Vice-Presidents should hold.

The Prime Minister

11. The Ministers recommended that the Prime Minister coordinate government business. To this end the Prime Minister:

(a) Chairs the Cabinet.

(b) Receives and appoints members of the Cabinet upon nomination by the components of the inter-Congolese dialogue agreed upon to form part of the Cabinet.

(c) Reports to the Council of State.

The Cabinet

12. The Ministers examined the various proposals on the Cabinet and identified the following categories of ministries critical to the transition:

Category I: Sovereignty ministries

Defence
Security
Foreign Affairs/Foreign Policy
Internal Affairs
Justice

Category II: Economic/development ministries

Finance
Mining
Tourism, Trade and Industry
Economic Infrastructure
Agriculture etc.

Category III: Social and mobilization ministries

Education
Health
Gender, Youth etc.
Information
Arts and Culture
Constitutional Affairs etc.

13. The Ministers also identified the following principles for appointments to the Cabinet:

(a) The portfolios under category I shall be held by the current Government of the Democratic Republic of the Congo, MLC and RCD on the basis of at least one each.

(b) Category II ministries. The current Government of the Democratic Republic of the Congo, MLC and RCD should hold at least one of the economic portfolios under category II. The rest of the ministries in this category should be allocated on the basis of a formula to be agreed upon by the parties to the inter-Congolese dialogue.

(c) The portfolios under category III shall be allocated to the components of the inter-Congolese dialogue to be part of the Cabinet on the basis to be agreed upon in the inter-Congolese dialogue.

Special/independent institutions

14. The civil society should only be considered for the special/independent and special institutions such as the Human Rights Commission, the Truth and Reconciliation Commission, the Electoral Commission and the High Media Council. A Constitutional Commission should be established with the mandate and terms of reference determined by the Council of State and the National Assembly.

The Defence Council

15. The Ministers discussed the proposals on the Defence Council and further agreed on the following recommendations:

(a) The Defence Council should advise the Council of State on all matters of defence and security.

(b) In order to ensure stability during the transition, the composition, structure and command of the new national army should reflect the balance of forces of the Congolese signatories to the Lusaka Ceasefire Agreement.

(c) The composition and procedures of the Defence Council should be determined by the inter-Congolese dialogue before the establishment of the Transitional Administration.

(d) The Defence Council shall be answerable to the Council of State.

III. The Legislature

16. The Ministers considered the proposals on the legislature and recommended the following principles:

(a) The size of the National Assembly shall be decided upon by the inter-Congolese dialogue.

(b) Inclusiveness. The composition should be based on the principle of inclusiveness, taking into account affordability, balance of forces (relative strength and status) and sensitivity to gender, youth and other marginalized groups.

(c) Regional representation. In proposing membership of the National Assembly, the groups should take into account regional representation.

17. The Ministers examined the issue of the relationship between the Executive and the National Assembly and made the following recommendations:

(a) The National Assembly should have an oversight role on the Executive without paralysing the functioning of government.

(b) The National Assembly should have the powers to censure the Prime Minister or Cabinet Ministers on specific grounds of abuse of office/treasonable conduct based on the two-thirds majority rule. The censure under this paragraph shall, subject to paragraph 9 (f), take immediate effect.

(c) The National Assembly should have powers to approve appointments of members of the special/independent institutions.

18. The Ministers recommended that the Speaker should be elected by the National Assembly from the list of names submitted by the civil society. The Ministers

further recommended that the Speaker of the National Assembly should be assisted by three Deputy Speakers from the current Government of the Democratic Republic of the Congo, MLC and RCD. The Bureau composed of the Speaker and his/her deputies should be responsible for appointments of senior officials of the National Assembly. The National Assembly may remove the Speaker and/or the Deputy Speaker upon a resolution of the Assembly carried by not less than two thirds of the total membership of the Assembly.

IV. The Judiciary

19. The Ministers considered the various proposals on the Judiciary and further recommended that the Council of State should make recommendations to the National Assembly on the number of Judges of the Supreme Court and the procedures for their appointment. The Chief Justice and the Deputy Chief Justice should be appointed from a list submitted by the Council of State.

20. The Ministers reiterated the appeal to the international community to continue to support the quest for a broad-based, all-inclusive solution to the Congolese question, taking into account the uniqueness and complexity of the situation.

21. The Ministers agreed to use their good offices to persuade their respective allies to commit themselves to these proposals.

22. Finally, the Ministers agreed that the Presidents of Uganda and Rwanda share these recommendations with President Thabo Mbeki and the facilitator, Sir Ketumire Masire.

(*Signed*) James **Wapakabulo**
Third Deputy Prime Minister
and Minister for Foreign Affairs
Republic of Uganda

(*Signed*) Andre **Bumaya**
Minister for Foreign Affairs
and Regional Cooperation
Republic of Rwanda

Done at Kibuye, Rwanda, on 2 May 2002.